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7	
8	UNITED STATES DISTRICT COURT
9	NORTHERN DISTRICT OF CALIFORNIA
10	SAN JOSE DIVISION
11) Case No.: 11-CV-03999-LHK
12 13	JOSEPHINE SMITH, an individual, and A.S., a) minor, VERDICT FORM
14	Plaintiffs,)
15	v.)
16 17	CITY OF SANTA CLARA, a public entity, and) CLAY ROJAS, an individual.) Defendants.)
18)
19	We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdict in this case.
20	
21	I. 42 U.S.C. § 1983 – Violation of Fourth Amendment – Excessive Force (Josephine Smith Against Defendant Clay Rojas).
22	We answer the questions submitted to us as follows:
23	Did Clay Rojas use excessive force against Josephine Smith?
24	Yes No
25	If your answer to question 1 is yes, then answer question 2. If you answered no, go to
26	Section II.
27	
28	
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1	2.	Did Clay I	Rojas act under col	lor of law?
2		Yes		No
3	If	your answer	r to question 2 is ye	es, then answer question 3. If you answered no, go to
4	Section II.			
5	3.	Was Josep	phine Smith harmed	d by defendant Clay Rojas' use of force?
6		Yes		No
7	If	your answer	r to question 3 is ye	es, then answer question 4. If you answered no, go to
8	Section II.			
9	4.	Was Clay	Rojas' conduct a s	substantial factor in causing harm to Josephine Smith?
10		Yes		No
11	If	your answer	r to question 4 is ye	es, then answer question 5. If you answered no, go to
12	Section II.			
13	5.	What are J	Josephine Smith's	damages?
14	TC	TAL:	\$	
15	Go	to Section	ı II.	
16	II.			n of First Amendment – Retaliation (Josephine Smith
17		Against D	Defendant Clay Ro	ojas).
18	We	e answer the	e questions submit	tted to us as follows:
19	6.	Did Jose	ephine Smith engag	ge in speech protected under the First Amendment?
20		Yes		No
21	If y	your answe	r to question 6 is ye	es, then answer question 7. If you answered no, go to
22	Section III	Ι.		
23	7. I	Oid Clay Ro	ojas take action aga	ainst Josephine Smith?
24		Yes		No
25	If y	your answer	r to question 7 is ye	es, then answer question 8. If you answered no, go to
26	Section III	[.		
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1	8. Was Josephine Smith's protected speech a substantial or motivating factor for Clay
2	Rojas' action?
3	Yes No
4	If your answer to question 8 is yes, then answer question 9. If you answered no, go to
5	Section III.
6	9. Did Clay Rojas act under color of law?
7	Yes No
8	If your answer to question 9 is yes, then answer question 10. If you answered no, go to
9	Section III.
10	10. Was Josephine Smith harmed by Clay Rojas' action?
11	Yes No
12	If your answer to question 10 is yes, then answer question 11. If you answered no, go to
13	Section III.
14	11. Was Clay Rojas' conduct a substantial factor in causing harm to Josephine Smith?
15	Yes No
16	If your answer to question 11 is yes, then answer question 12. If you answered no, go to
1718	Section III.
19	12. What are Josephine Smith's damages?
20	TOTAL: \$
21	Go to Section III.
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,	Case No. 11-CV-03999-LHK

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1		Cal. Civ. Code § 52.1 – V Defendants Clay Rojas a		t – (Josephine Smith Against ara)
2	We	answer the questions subn	nitted to us as follows:	
3	13.	Did a defendant use action	ons that a reasonable per	son would have found threatening,
4		intimidating, or coercive	against Josephine Smith	a, which (a) interfered with
5		Josephine Smith's const	itutional rights, or (b) car	used Josephine Smith to reasonably
6		believe that if she exerci	sed her constitutional rig	hts, defendants would commit
7		violence against her or h	er property?	
8		Clay Rojas	Yes	No
9		City of Santa Clara	Yes	No
10	Afte	er you answer question 13,	go to question 14.	
11	14.	Did a defendant act viole	ently against Josephine S	mith or her property, which
12		interfered with her const	itutional rights?	
13		Clay Rojas	Yes	No
14		City of Santa Clara	Yes	No
15	Afte	er you answer question 14,	go to question 15.	
16	15.	Did a defendant act viole	ently against Josephine S	mith or her property to prevent
17		Josephine Smith from ex	xercising or enjoying her	constitutional rights, or to retaliate
18		against Josephine Smith	for having exercised or e	enjoyed her constitutional rights?
19		Clay Rojas	Yes	No
20		City of Santa Clara	Yes	No
21	If yo	our answer to questions 13	s, 14, or 15 is yes, go to q	uestion 16. If you answered no to
22	questions 13	3, 14, and 15, go to Sectio	n IV.	
23	16.	Was a defendant's condu	act a substantial factor in	causing harm to Josephine Smith?
24		Clay Rojas	Yes	No
25		City of Santa Clara	Yes	No
26	If yo	our answer to question 16	is yes as to any defendan	at, then answer question 17. If your
27		uestion 16 is no as to all d	-	-
28			А	
	Case No. 11-0	CV-03999-LHK	"	

1	17	What are Josephine Smith	n's damagas?	
2		TAL: \$	_	
3			·	
4		to Section IV.		
5	IV.	Clay Rojas and the City		ct – (A.S. Against Defendants
6	We	answer the questions sub-	mitted to us as follows:	
7	18.	Did a defendant use act	ions that a reasonable pe	erson would have found threatening,
8		intimidating, or coerciv	e against A.S., which (a)	interfered with A.S.'s
9		constitutional rights, or	(b) caused A.S. to reaso	nably believe that if she exercised
10		her constitutional rights	, defendants would com	mit violence against her or her
11		property?		
12		Clay Rojas	Yes	No
13		City of Santa Clara	Yes	No
14	Aft	er you answer question 18	s, go to question 19.	
15	19.	Did a defendant act viol	lently against A.S. or her	r property, which interfered with her
16		constitutional rights?		
17		Clay Rojas	Yes	No
18		City of Santa Clara	Yes	No
19	Aft	er you answer question 19	, go to question 20.	
20	20.	Did a defendant act viol	lently against A.S. or her	r property to prevent A.S. from
21		exercising or enjoying h	ner constitutional rights,	or to retaliate against A.S. for
22		having exercised or enjo	oyed her constitutional r	ights?
23		Clay Rojas	Yes	No
24		City of Santa Clara	Yes	No
25	If y	our answer to questions 1	8, 19, or 20 is yes, go to	question 21. If you answered no as
26	to question	s 18, 19, and 20, go to Sec	ction V.	
27				
28			-	
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21. Was a defendant's con-	duct a substantial factor in	a causing harm to A.S.?
Clay Rojas	Yes	No
City of Santa Clara	Yes	No
If your answer to question 2	1 is yes as to any defendar	nt, then answer question 22.
answer to question 21 is no as to all	defendants, go to Section	V.
22. What are A.S.'s damage	es?	
TOTAL: \$	·	
Go to Section V.		
V. Intrusion Into Private A and the City of Santa C		Against Defendants Clay
We answer the questions sub	omitted to us as follows:	
23. Did Josephine Smith ha	ve a reasonable expectation	on of privacy in her home?
Yes	No	
		_
If your answer to question 23	· · · · · · · · · · · · · · · · · · ·	
If your answer to question 23 Section VI.	· · · · · · · · · · · · · · · · · · ·	
-	3 is yes, then answer ques	tion 24. If you answered no
Section VI.	3 is yes, then answer ques	tion 24. If you answered no
Section VI. 24. Did a defendant intention	3 is yes, then answer ques	tion 24. If you answered no
Section VI. 24. Did a defendant intention Clay Rojas	3 is yes, then answer quest nally intrude in Josephine Yes Yes	Smith's home? No No
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara	3 is yes, then answer quest nally intrude in Josephine Yes Yes 4 is yes as to any defendant	Smith's home? No No
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24	3 is yes, then answer quest nally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI.	Smith's home? No No nt, then answer question 25.
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 unswered no as to all defendants, go	3 is yes, then answer quest nally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI.	Smith's home? No No nt, then answer question 25.
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 answered no as to all defendants, go 25. Would the defendant's in	a is yes, then answer quest a series and its yes, then answer quest and its yes as to any defendant to Section VI.	Smith's home? No No nt, then answer question 25.
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 answered no as to all defendants, go 25. Would the defendant's in Clay Rojas	ally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI. htrusion be highly offensive Yes Yes Yes	Smith's home? No No nt, then answer question 25. Ye to a reasonable person? No No No No
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 answered no as to all defendants, go 25. Would the defendant's in Clay Rojas City of Santa Clara	ally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI. htrusion be highly offensive Yes Yes Yes Yes S is yes as to any defendant of the section VI.	Smith's home? No No nt, then answer question 25. Ye to a reasonable person? No No No No
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 answered no as to all defendants, go 25. Would the defendant's in Clay Rojas City of Santa Clara If your answer to question 25	ally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI. htrusion be highly offensive Yes To Section VI.	Smith's home? No No nt, then answer question 25. Ye to a reasonable person? No No No No nt, then answer question 26.
Section VI. 24. Did a defendant intention Clay Rojas City of Santa Clara If your answer to question 24 answered no as to all defendants, go 25. Would the defendant's in Clay Rojas City of Santa Clara If your answer to question 25 answered no as to all defendants, go	ally intrude in Josephine Yes Yes 4 is yes as to any defendant to Section VI. htrusion be highly offensive Yes To Section VI.	Smith's home? No No nt, then answer question 25. Ye to a reasonable person? No No No No nt, then answer question 26.

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1	If your answer to question 26	is yes as to any defendar	at, then answer question 27. If yo	our
2	answer to question 26 is no as to all o	defendants, go to Section	VI.	
3	27. What are Josephine Smith	n's damages?		
4	TOTAL: \$	·		
5	Go to Section VI.			
6 7	VI. Intrusion Into Private A of Santa Clara)	ffairs (A.S. Against Def	endants Clay Rojas and the Ci	ty
8	We answer the questions sub	mitted to us as follows:		
9	28. Did A.S. have a reasonable	le expectation of privacy	in her home?	
10	Yes	No		
11	If your answer to question 28	is yes, then answer quest	ion 29. If you answered no, go t	to
12	Section VII.			
13	29. Did a defendant intention	ally intrude in A.S.'s hon	ne?	
14	Clay Rojas	Yes	No	
15	City of Santa Clara	Yes	No	
16	If your answer to question 29	is yes as to any defendan	at, then answer question 30. If yo	ou
17	answered no as to all defendants, go	to Section VII.		
18	30. Would the defendant's int	trusion be highly offensiv	re to a reasonable person?	
19	Clay Rojas	Yes	No	
20	City of Santa Clara	Yes	No	
21	If your answer to question 30	is yes as to any defendan	at, then answer question 31. If yo	эu
22	answered no as to all defendants, go	to Section VII.		
23	31. Was the defendant's cond	uct a substantial factor in	causing harm to A.S.?	
24	Clay Rojas	Yes	No	
25	City of Santa Clara	Yes	No	
26	If your answer to question 31	is yes as to any defendan	at, then answer question 32. If you	ou
27	answered no as to all defendants, go	to Section VII.		
28		_		
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1	32	2. What are A.S.'s damages?		
2		OTAL: \$		
3		o to Section VII.		
4	VII.		(Iosophina Smith Ag	ainst Defendants Clay Rojas and
5	V 11.	the City of Santa Clara)	(Josephine Simin Ag	anist Detenuants Clay Rojas anu
6	W	e answer the questions submi	itted to us as follows:	
7	33	3. Did a defendant intentional	ly touch Josephine Sm	ith or cause Josephine Smith to be
8		touched?		
9		Clay Rojas	Yes	No
10		City of Santa Clara	Yes	No
11	If	your answer to question 33 is	yes as to any defenda	ant, then answer question 34. If you
12	answered	no as to all defendants, go to	Section VIII.	
13	34	. Did a defendant use unreaso	onable force in detaini	ng Josephine Smith?
14		Clay Rojas	Yes	No
15		City of Santa Clara	Yes	No
16	If	your answer to question 34 is	yes as to any defenda	ant, then answer question 35. If you
17	answered	no as to all defendants, go to	Section VIII.	
18	35	5. Did Josephine Smith conser	nt to the use of that for	rce?
19		Yes	No	_
20	If	your answer to question 35 is	no, then answer ques	tion 36. If you answered yes, go to
21	Section V	TIII.		
22	36	5. Was Josephine Smith harmo	ed by a defendant's us	e of force?
23		Clay Rojas	Yes	No
24		City of Santa Clara	Yes	No
25	If	your answer to question 36 is	yes, then answer que	stion 37. If you answered no, go to
26	Section V	III.		
27				
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Was a defendant's use of unreasonable force a substantial factor in causing harm to 2 Josephine Smith? 3 Clay Rojas Yes _____ No ____ 4 City of Santa Clara Yes _____ No ____ 5 If your answer to question 37 is yes as to any defendant, then answer question 38. If you 6 answered no as to all defendants, go to Section VIII. 7 38. What are Josephine Smith's damages? 8 TOTAL: 9 Go to Section VIII. 10 VIII. Intentional Infliction of Emotional Distress (Josephine Smith Against 11 **Defendants Clay Rojas and the City of Santa Clara)** We answer the questions submitted to us as follows: 12 39. Was a defendant's conduct outrageous? 13 Yes _ No ____ Clay Rojas 14 Yes _____ No _____ City of Santa Clara 15 If your answer to question 39 is yes as to any defendant, then answer question 40. If you 16 answered no as to all defendants, go to Section IX. 17 18 40. Did the defendant intend to cause Josephine Smith emotional distress, or did defendant act with reckless disregard of the probability that Josephine Smith would 19 suffer emotional distress, knowing that Josephine Smith was present when the 20 conduct occurred? 21 Clay Rojas Yes _____ No ____ 22 City of Santa Clara Yes _____ No _____ 23 If your answer to question 40 is yes as to any defendant, then answer question 41. If you 24 answered no as to all defendants, go to Section IX. 25 26 27 28 9

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Case 5:11-cv-03999-LHK Document 274 Filed 12/17/13 Page 10 of 13 41. Did Josephine Smith suffer severe emotional distress? Yes _____ No _____ If your answer to question 41 is yes, then answer question 42. If you answered no, go to Section IX. 42. Was the defendant's conduct a substantial factor in causing Josephine Smith's severe emotional distress? Clay Rojas Yes _____ No _____ City of Santa Clara Yes No If your answer to question 42 is yes as to any defendant, then answer question 43. If you answered no as to all defendants, go to Section IX. 43. What are Josephine Smith's damages? \$_____. TOTAL: Go to Section IX. IX. Intentional Infliction of Emotional Distress (A.S. Against Defendants Clay Rojas and the City of Santa Clara) We answer the questions submitted to us as follows: 44. Was a defendant's conduct outrageous? Clay Rojas Yes _____ No ____ Yes _____ No _____ City of Santa Clara If your answer to question 44 is yes as to any defendant, then answer question 45. If you answered no as to all defendants, go to Section X. Did the defendant intend to cause A.S. emotional distress, or did defendant act 45. with reckless disregard of the probability that A.S. would suffer emotional distress, knowing that A.S. was present when the conduct occurred? Yes ____ Clay Rojas No No _ City of Santa Clara Yes _____

answered no, go to Section X. 10 Case No. 11-CV-03999-LHK

If your answer to question 45 is yes as to any defendant, then answer question 46. If you

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1	46. Did A.S. suffer severe en	notional distress?		
2	Yes	No		
3		5 is yes, then answer questic	on 47. If you answered no, go to	С
4	Section X.	•		
5	47. Was the defendant's cond	duct a substantial factor in c	ausing A.S.'s severe emotional	
6	distress?			
7	Clay Rojas	Yes	No	
8	City of Santa Clara	Yes	No	
9	If your answer to question 47	7 is yes as to any defendant,	then answer question 48. If yo	u
10	answered no as to all defendants, go	to Section X.		
11	48. What are A.S.'s damages	;?		
12	TOTAL: \$	·		
13	Go to Section X.			
14 15	X. Trespass (Josephine Sm Clara)	nith Against Defendants C	lay Rojas and the City of San	ta
16	We answer the questions sub	omitted to us as follows:		
17	49. Did Josephine Smith own	n or control the property at 9	940 and 942 Gale Drive?	
18	Yes	No		
19	If your answer to question 49	is yes, then answer question	on 50. If you answered no, stop	
20	here, answer no further questions, ar	nd have the presiding juror s	ign and date this form.	
21	50. Did a defendant intention	nally or negligently enter Jos	sephine Smith's property?	
22	Clay Rojas	Yes	No	
23	City of Santa Clara	Yes	No	
24	If your answer to question 50) is yes as to any defendant,	then answer question 51. If yo	u
25	answered no as to all defendants, sto	op here, answer no further que	uestions, and have the presiding	,
26	juror sign and date this form.			
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1	51. Did the defendant enter the	e property without Jose	phine Smith's permission?	
2	Clay Rojas	Yes	No	
3	City of Santa Clara	Yes	No	
4	If your answer to question 51	is yes as to any defenda	ant, then answer question 52. If yo	u
5	answered no as to all defendants, stop	here, answer no furthe	r questions, and have the presiding	
6	juror sign and date this form.			
7	52. Was a defendant's entry in	to the property authorize	zed by law?	
8	Clay Rojas	Yes	No	
9	City of Santa Clara	Yes	No	
10	If your answer to question 52	was no as to any defend	lant, answer question 53. If your	
11	answer was yes as to all defendants, s	top here, answer no fur	ther questions, and have the	
12	presiding juror sign and date this form	1.		
13	53. Was Josephine Smith harm	ned by the defendant's	entry?	
14	Clay Rojas	Yes	No	
15 16	City of Santa Clara	Yes	No	
17	If your answer to question 53 i	is yes as to any defenda	ant, then answer question 54. If yo	u
18	answered no as to all defendants, stop	here, answer no furthe	r questions, and have the presiding	
19	juror sign and date this form.			
20	54. Was the defendant's entry	a substantial factor in c	eausing harm to Josephine Smith?	
21	Clay Rojas	Yes	No	
22	City of Santa Clara	Yes	No	
23	-		ant, then answer question 55. If yo	
24	answered no as to all defendants, stop	p here, answer no furth	er questions, and have the presiding	ng
25	juror sign and date this form.			
26	55. What are Josephine Smith	_		
27	TOTAL: \$	·		
28				
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	you are ready to present your	form. After this verdict form has been sig verdict in the courtroom.	iicu, iic
Signed:		Date:	
	PRESIDING JUROR		